

# Order

Michigan Supreme Court  
Lansing, Michigan

October 25, 2005

Clifford W. Taylor,  
Chief Justice

ADM File No. 2004-40

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

Amendment of Rule 3.215  
of the Michigan Court Rules  
(Domestic Relations Referees)

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On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Rule 3.215 of the Michigan Court Rules is adopted, effective January 1, 2006.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

## Rule 3.215 Domestic Relations Referees

(A)–(C) [Unchanged.]

(D) Conduct of Referee Hearings.

(1)–(3) [Unchanged.]

(4) An electronic or stenographic record must be kept of all hearings.

(a) The parties must be allowed to make contemporaneous copies of the record if the referee's recording equipment can make multiple copies simultaneously and if the parties supply the recording media. A recording made under this rule may be used solely to assist the parties during the proceeding recorded or, at the discretion of the trial judge, in any judicial hearing following an objection to the referee's recommended order; it may not be used publicly.

(b) If ordered by the court, or if stipulated by the parties, the referee must provide a transcript, verified by oath, of each hearing held. The cost of preparing a transcript must be apportioned equally between the parties, unless otherwise ordered by the court.

- (c) At least 7 days before the judicial hearing, a party who intends to offer evidence from the record of the referee hearing must provide notice to the court and each other party. If a stenographic transcript is necessary, except as provided in subrule (4)(b), the party offering the evidence must pay for the transcript.
- (d) If the court on its own motion uses the record of the referee hearing to limit the judicial hearing under subrule (F), the court must make the record available to the parties and must allow the parties to file supplemental objections within 7 days of the date the record is provided to the parties. Following the judicial hearing, the court may assess the costs of preparing a transcript of the referee hearing to one or more of the parties. This subrule does not apply when a party requests the court to limit the judicial hearing under subrule (F) or when the court orders a transcript to resolve a dispute concerning what occurred at the referee hearing.

(E) Posthearing Procedures.

(1)-(2) [Unchanged.]

- (3) The recommended order may be prepared using any of the following methods:
  - (a) the referee may draft a recommended order;
  - (b) the referee may approve a proposed recommended order prepared by a party and submitted to the referee at the conclusion of the referee hearing;
  - (c) within 7 days of the date of the referee's findings, a party may draft a proposed recommended order and have it approved by all the parties and the referee; or
  - (d) within 7 days after the conclusion of the referee hearing, a party may serve a copy of a proposed recommended order on all other parties with a notice to them that it will be submitted to the referee for approval if no written objections to its accuracy or completeness are filed with the court clerk within 7 days after service of the notice.

The party must file with the court clerk the original of the proposed recommended order and proof of its service on the other parties.

- (i) If no written objections are filed within 7 days, the clerk shall submit the proposed recommended order to the referee for approval. If the referee does not approve the proposed recommended order, the referee may notify the parties to appear on a specified date for settlement of the matter.
- (ii) To object to the accuracy or completeness of a proposed recommended order, the party must within 7 days after service of the proposed order, file written objections with the court clerk that state with specificity the inaccuracy or omission in the proposed recommended order, and serve the objections on all parties as required by MCR 2.107, together with a notice of hearing and an alternative proposed recommended order. Upon conclusion of the hearing, the referee shall sign the appropriate recommended order.

(3)-(7) [Renumbered (4)-(8), but otherwise unchanged.]

(F)-(G) [Unchanged.]

Staff Comment: These amendments, effective January 1, 2006, establish how the record of a referee hearing will be provided to parties and establish a procedure for a referee to submit a recommended order. MCR 3.215(D)(4)(a) tracks the language of MCR 8.109(B).

The staff comment is not an authoritative construction by the Court.

KELLY, J. I would publish for comment and receive testimony at a public hearing before voting on whether to adopt this revised rule.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 25, 2005

*Corbin R. Davis*  
Clerk